

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

FLOYD STEED,

Plaintiff,

v.

No. ____CV-09-1084

ENDEAVOR ENERGY RESOURCES, LP,
successor through merger to LCX ENERGY, LLC,

Defendant.

NOTICE OF REMOVAL

COMES NOW Defendant Endeavor Energy Resources, (“Endeavor”) by and through its attorneys, Atwood, Malone, Turner & Sabin, P.A., of Roswell, New Mexico, and hereby removes this Cause from the District Court of Eddy County, New Mexico on the ground that Plaintiff’s Complaint creates diversity jurisdiction. In support of this Removal, Defendant states as follows:

1. On September 21, 2009, a civil action bearing Cause No. CV-2009-676 was filed in the District Court of Eddy County, Fifth Judicial District, State of New Mexico. Defendant Endeavor was not served with the original complaint. An “Amended Suit For Damages” (Amended Complaint) was filed on October 9, 2009. The case was filed against Endeavor, alleging that LCX Energy, which has been merged into Endeavor, conducted drilling activities on Plaintiff’s property located in Eddy County, New Mexico, resulting in surface damage to Plaintiff’s property.

2. Plaintiff is a citizen of New Mexico. Defendant Endeavor is a Texas corporation, with its principal place of business in Texas, making it a citizen of Texas.

3. The action instituted by the Plaintiff in State Court is a civil action for which the United States District Court has original jurisdiction due to the diversity of the parties' citizenship in accordance with 28 U.S.C. Section 1332. Specifically, the controversy in this action is between citizens of different states, in that Defendant Endeavor, is a corporation created and existing under the laws of the State of Texas, and is a resident and citizen of said State of Texas, having its principal place of business in the State of Texas. Plaintiff is a citizen of the State of New Mexico.

4. The facts stated in Plaintiff's Complaint, and the damages Plaintiff seeks, including a request for punitive damages, establish that the amount in controversy in this action exceeds \$75,000.00. Plaintiff's Amended Complaint seeks to recover damages for property damage to his land, damages for temporary use of certain portions of his property, damages occasioned by the "unreasonable, unnecessary and excessive use" of Plaintiff's property and Plaintiff's road, damages to Plaintiff's road and continuing damage for future use of Plaintiff's road, cost of repairs and future repairs to Plaintiff's road, damages caused to Plaintiff by the "unreasonable and unnecessary" use of Plaintiff's property and the "nuisance created thereby," and punitive damages in an amount sufficient to deter future violations of the "rules and regulations of New Mexico."

5. Furthermore, Plaintiff's initial demand in this matter, two years prior to this lawsuit being filed, amounted to over \$75,000. As evidenced by the attached letter (Exhibit A), Plaintiff demanded \$40,000 for surface damage, \$25,000 for use of the road, new fencing, improved road surfaces and an additional \$1,000 per year, per well for use of the road. These demands, along with new claims for damages in the Amended Complaint, including punitive damages, establish that the amount in controversy is over \$75,000.

6. This Court has jurisdiction over Plaintiff's causes of action pursuant to 28 U.S.C. Section 1441(a), which makes removable any civil action for which the district courts have original jurisdiction founded on the diversity of citizenship of the parties.

7. This Notice of Removal is filed within 30 days of the time Defendant Endeavor received a copy of Plaintiff's Amended Complaint, which establishes the case is one which is removable. Thus, the Notice of Removal is timely filed pursuant to the terms of 28 U.S.C. Section 1446(b).

8. Venue is properly placed in the United States District Court for the District of New Mexico because it is the District Court for the district within which the action is pending in accordance with 28 U.S.C. Section 1446(a).

9. A copy of all documents served on or filed by Defendant in the district court to date are attached hereto as Exhibit "B."

10. Defendants shall promptly file a copy of this Notice of Removal with the Clerk of the District Court of Eddy County, Fifth Judicial District, State of New Mexico, thereby effecting removal as provided in 28 U.S.C. Section 1446(d).

WHEREFORE, Defendants pray that Cause No. CV-2009-676 currently pending in the District Court of Eddy County, Fifth Judicial District, State of New Mexico, be removed into this Court for trial and determination as provided by law.

ATWOOD, MALONE, TURNER & SABIN, P.A.

By: Submitted Electronically

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*Attorneys for Defendant Endeavor Energy
Resources, LP.*

I hereby certify that a true and correct
copy of the foregoing was mailed to all
parties of record this 13th day of November,
2009.

Electronically Filed

Carla N. Williams

